

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KRISTA GLADNEY,

Petitioner,

Case No. 2:20-cv-11521

v.

Honorable George Caram Steeh

JEREMY HOWARD,

Respondent.

**OPINION AND ORDER DENYING AS PREMATURE THE
MOTION TO REOPEN THE CASE (ECF No. 30) AND
DENYING AS MOOT THE MOTION TO PROCEED WITHOUT
PREPAYMENT OF FEES AND COSTS (ECF No. 31)**

Krista Gladney, (“Petitioner”), filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition was held in abeyance and administratively closed so that petitioner could return to the state courts to exhaust additional claims. Petitioner was subsequently granted three extensions of time to file her post-conviction motion with the state courts.

Petitioner has sent this Court a letter (ECF No. 30) indicating that the trial judge originally failed to adjudicate her post-conviction motion. The Michigan Court of Appeals remanded the case to the Wayne County Circuit Court to adjudicate her post-conviction motion. On remand the court

denied the motion on April 19, 2023. Petitioner claims she has yet to receive a copy of the order. Petitioner in her letter indicated that she requested a copy of the docket sheet from the Wayne County Circuit Court to show when the order was denied, presumably so she can appeal the judge's decision to deny her post-conviction motion.

To the extent that petitioner seeks to reopen her case, the Court denies the motion to reopen the case at this time. Any motion to reopen is premature because petitioner is required to appeal the denial of her post-conviction motion to the Michigan Court of Appeals and the Michigan Supreme Court in order to properly exhaust the claims that she would raise in her post-conviction motion. See *e.g. Mohn v. Bock*, 208 F. Supp. 2d 796, 800 (E.D. Mich. 2002). Under M.C.R. 7.205(G), petitioner has six months from the date that the trial judge denied the motion for relief from judgment to file an appeal with the Michigan Court of Appeals. The Court denies the motion to reopen at this time. Petitioner shall file a motion to lift the stay and to reopen the case using the same caption and case number within sixty (60) days after the conclusion of the state court post-conviction proceedings.

This Court has already granted petitioner leave to appeal *in forma pauperis*, thus, it is unnecessary for petitioner to again obtain permission to

proceed *in forma pauperis* on appeal. Petitioner's current motion to proceed *in forma pauperis* on appeal (ECF No. 31) will therefore be denied as moot. See *McMillan v. McKune*, 16 F. App'x 896, 897 (10th Cir. 2001).

ORDER

IT IS ORDERED that the motion to reopen the case (ECF No. 30) **IS DENIED AS PREMATURE** and the motion to proceed without prepayment of fees and costs (ECF No. 31) **IS DENIED AS MOOT**.

Petitioner shall file a motion to lift the stay and reopen the case using the same caption and case number within **sixty (60) days after the conclusion of the state court post-conviction proceedings**. Petitioner is free at that time to file an amended habeas petition containing the arguments that she raised before the state courts with respect to these claims.

Dated: June 26, 2023

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on June 26, 2023, by electronic and/or ordinary mail and also on Krista Gladney #276752, Huron Valley Complex – Womens, 3201 Bemis Road, Ypsilanti, MI 48197.

s/Mike Lang
Deputy Clerk